

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RUBIK'S BRAND LIMITED,

Plaintiff,

-against-

FLAMBEAU, INC.,

Defendant.

Civil Action No. 1:17-cv-6559 (PGG)

CONFIDENTIAL VERSION

**DEFENDANT FLAMBEAU, INC.'S APPENDIX
TO RULE 56.1 STATEMENT OF MATERIAL FACTS
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

<u>Exhibit</u>	<u>Description</u>	<u>Bates Range</u>
1	Declaration of Mike Burke	
2	U.S. Registration No. 5,920,928	
3	Duncan 3x3 Quick Cube Photo	FLAMBEAU001444
4	Duncan 3x3 Quick Cube Packaging	FLAMBEAU000690
5	Duncan 3x3 Quick Cube Packaging	FLAMBEAU000428
6	Duncan Website Printout - Quick Cubes	FLAMBEAU000426
7	Duncan Website Printout - Quick Cube 3x3	FLAMBEAU000429-431
8	Duncan Catalog Excerpt	FLAMBEAU000848
9	WCA Regulations and Guidelines	FLAMBEAU002484-2502
10	Declaration of Bennett Berson	
11	May 28, 2015 E-mails	FLAMBEAU001080
12	January 26-28, 2016 E-mails	FLAMBEAU001085
13	January 28-February 1, 2016 E-mails	FLAMBEAU001087
14	November 11, 2016 E-mail	FLAMBEAU001090
15	Declaration of Jessie N. Roberts and Expert Report	
16	Declaration of Lee Loetz and Expert Report	
17	Declaration of Anita Marie Boor	
18	U.S. Patent No. 3,655,201 (Nichols)	FLAMBEAU001072-1079
19	Japanese Patent No. 53-120946 (Ishige) and Translation	FLAMBEAU001578-1587
20	Hungarian Patent No. 170062 (Rubik) and Translation	FLAMBEAU000631-648
21	Belgian Patent No. 887,875 (Rubik) and Translation	FLAMBEAU000602-630
22	Hungarian Patent No. 180387 (Rubik) and Translation	FLAMBEAU000649-666
23	U.S. Patent No. 4,378,116 (Rubik)	FLAMBEAU000667-671

<u>Exhibit</u>	<u>Description</u>	<u>Bates Range</u>
24	U.S. Patent No. 4,378,117 (Rubik)	FLAMBEAU001361-1364
25	U.S. Patent No. 4,409,750 (Silbermintz)	FLAMBEAU001365-1378
26	U.S. Patent No. 6,626,431 (Possidente)	FLAMBEAU001678-1684
27	U.S. Patent No. 7,644,924 (Horowitz)	FLAMBEAU001685-1695
28	U.S. Patent No. 4,421,311 (Sebesteny)	FLAMBEAU001383-1395
29	U.S. Patent No. 3,081,089 (Gustafson)	FLAMBEAU001061-1066
30	UK Patent Application 2489619 (Perrin)	RBL_009260-9301
31	April 5, 1982 Trademark Application	FLAMBEAU000039-42, 249, 253-257
32	July 27, 1982 Office Action	FLAMBEAU000043
33	September 7, 1982 Response and Amendment	FLAMBEAU000044-47
34	January 17, 1983 Office Action	FLAMBEAU000097
35	May 31, 1983 Response	FLAMBEAU000098-161
36	Notice of Publication	FLAMBEAU000235
37	U.S. Registration No. 1,265,094	FLAMBEAU000279
38	October 2, 1984 Decision in <i>Moleculon Research Corporation v. CBS, Inc.</i> , No. 82-289 (D. Del.)	FLAMBEAU002065-2087
39	June 19, 1985 Brief for Appellant in <i>CBS, Inc. v. Moleculon Research Corporation</i> , No. 85-2096 (Fed. Cir.)	FLAMBEAU002006-2025
40	May 16, 1986 Decision in <i>Moleculon Research Corporation v. CBS, Inc.</i> , No. 85-2096 (Fed. Cir.)	FLAMBEAU002051-2064
41	July 6, 1987 Decision in <i>Moleculon Research Corporation v. CBS, Inc.</i> , No. 82-289 (D. Del.)	FLAMBEAU002088-2092
42	April 5, 1989 Decision in <i>Moleculon Research Corporation v. CBS, Inc.</i> , No. 87-1594 (Fed. Cir.)	FLAMBEAU002093-2096
43	Excerpts of Rubik's Product Book	RBL_000245, 246, 260
44	Rubik's Quick Reference Guide	RBL_005449
45	October 24, 2019 decision in <i>Rubik's Brand Ltd. v. EUIPO & Simba Toys, GmbH</i> , Case T-601/17	FLAMBEAU003131-3151
46	Rubik's Color Chart	RBL_006075
47	Using Official Rubik's Cube Colors	FLAMBEAU002551-2552
48	TSDR Information for '094 Registration	FLAMBEAU000001-7
49	New Rubik's 3x3 Cube	FLAMBEAU000337-338
50	How to Solve the 3x3 Rubik's Cube?	FLAMBEAU000281-288
51	Solution Guide 3x3 Rubik's Cube	RBL_000661-672
52	Meeting the Cube Lesson 1 Guide	RBL_000339-356
53	The White Cross Lesson 2 Guide	RBL_000395-409
54	Color Wheel #1	Deposition Ex. 140
55	Color Wheel #2	Deposition Ex. 141
56	Check List for Solving the Rubik's Cube	RBL_002692
57	The Rubik's Cube Color Schemes	FLAMBEAU002109-2113
58	"Children of the Cube" New York Times Article	FLAMBEAU002607-2623

<u>Exhibit</u>	<u>Description</u>	<u>Bates Range</u>
59	November 10, 2016 decision in <i>Simba Toys GmbH v. EUIPO & Seven Towns, Ltd</i> , Case C-30/15 P	FLAMBEAU000552-560
60	Excerpts of Deposition Transcript of Holly Riehl	
61	Excerpts of Deposition Transcript of David Kremer	
62	Excerpts of Deposition Transcript of Richard Gottlieb	
63	Excerpts of Deposition Transcript of Rany Simms	
64	Excerpts of Deposition Transcript of Ronald Vollmar	
65	Excerpts of Deposition Transcript of Mark Cipolla	
66	“Cube is a Problem for CBS” New York Times Article	FLAMBEAU002026-2028
67	Excerpts of RBL’s Third Amended Responses to Second Set of Interrogatories	
68	Excerpts of RBL’s First Amended Responses to Third Set of Interrogatories	
69	Excerpts of RBL’s Second Amended Responses to First Set of Requests for Admission	
70	Rubik’s Interactive Style Guide	RBL_003626-3631
71	The Ideal Solution Guide	FLAMBEAU002460-2475
72	Scientific American Article Excerpts	FLAMBEAU001149, 1153, 1156, 1170, 1175-1182, 1184, 1186, 1189, 1193
73	“Rubik’s Cube: A Craze Ends” New York Times Article	
74	Rubik’s Geek Tool Kit	BOSTONA_000033-34, 38-40, 42, 51

Respectfully submitted this 22nd day of June, 2020.

/s/ Anthony A. Tomaselli

Anthony A. Tomaselli (*pro hac vice*)

anthony.tomaselli@quarles.com

Kristin Graham Noel (*pro hac vice*)

kristin.noel@quarles.com

Matthew J. Duchemin (*pro hac vice*)

matthew.duchemin@quarles.com

Anita Marie Boor (*pro hac vice*)

anita.boor@quarles.com

QUARLES & BRADY, LLP

33 East Main Street, Suite 900

Madison, WI 53703

Tel.: 608-251-5000

Attorneys for Defendant Flambeau, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 22, 2020, per Judge Gardephe's Rule IV.C, the foregoing document was served on counsel of record for Plaintiff via e-mail:

Mark I. Peroff
Darren W. Sanders
Cassandra Tam
Peroff Saunders, P.C.
745 5th Avenue, Suite 500
New York, NY 10151
mark.peroff@peroffsaunders.com
dsaunders@peroffsaunders.com
ctam@peroffsaunders.com

/s/ Anita Marie Boor _____

Anita Marie Boor